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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

CONTINUATION SHEET

Continuation of 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

As to claim 1, Applicant's attorney argues that the combination of Ketchum et al. (US 2003/0048856; hereinafter Ketchum) in view of Dabak et al. (US 6,594,473; hereinafter Dabak) fails to disclose the following claim limitation:

"...transmitting in parallel the first transmission packet from a first antenna at a first rate at a first power modified by a first weight value over the first channel and the second transmission packet from a second antenna at a second rate that differs from the first rate..."

However, the Examiner respectfully disagrees with the Applicant's attorney and asserts that Ketchum in view of Dabak shows the above-mentioned claim limitation. The reasoning is provided below.

First, Applicant's attorney argues (at pages 9, par. 2) that Ketchum fails to disclose "that there is a different rate for parallel transmissions from different parallel antennas." In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). It should be noted that Dabak was introduced in order to show "(transmission) at a first rate at a first power modified by a first weight value and (transmission)

at a second rate that differs from the first rate and at the first power modified by a second weight value" (as shown in page 6-7 of Office Action mailed 09/03/2008).

Given the above-reasoning, the combination of Ketchum in view of Dabak disclose "a different rate for parallel transmissions from different parallel antennas" (as detailed above).

Second, Applicant's attorney argues (at page 12, par. 1) that the transmission rates of the claimed invention is different from the transmission rate of Dabak. The rejection (taken from Office Action mailed 09/03/2008) of the different transmission rates are shown below:

"transmission at a first rate at a first power modified by a first weight value (Figure 4 and 8; col. 9, line 30 to col. 10, line 13; it is noted that shows that the MIMO transmitter transmits multiple symbols over different channels at a given (or previous) weight. It is also noted that the initial (or previous) transmission is performed at a first rate since an initial (or previous/unmodified) weight is applied. The channel estimator 50 determines estimated channel impulse responses based on the incoming de-spread data which are sent as feedback values. These feedback values are shown in FIG. 4 as weights W_1 (claimed first weight) and W_2 . Thereupon, these weights (W_1 applied to first channel) are applied to their respective channels. It is noted the since different weights (i.e. W_1 and W_2) are applied, the transmissions are held at different rates.) and transmission at a second rate that differs from the first rate and at the first power modified by a second weight value (Figure 4 and 8; col. 9, line 30 to col. 10, line 13; it is noted that shows that the MIMO transmitter transmits multiple symbols over different channels at a given (or previous) weight. It is noted that the initial (or previous) transmission is performed at a first rate since an initial (or previous/unmodified) weight

is applied. The channel estimator 50 determines estimated channel impulse responses based on the incoming de-spread data which are sent as feedback values. These feedback values are shown in FIG. 4 as weights W_1 and W_2 (claimed second weight). Thereupon, these weights (W_2 applied to second channel) are applied to their respective channels. It is noted the since different weights (i.e. W_1 and W_2) are applied, the transmissions are held at different rates.)."

Applicant's Attorney shows (page 12, par. 1) that "claim 1 talks of both power weights and different transmission rates." Based from the argument presented, Applicant's attorney shows that power weights and transmission rates are different claim limitations and not related. Even though, the Examiner agrees that power weights and transmission rates are different claim limitations, however, the Examiner respectfully disagrees that the two claim limitations are not related. Again, claim 1 limitations are shown below in order to clarify the relationship between the two claim limitations:

"...transmitting in parallel the first transmission packet from a first antenna at a first rate at a first power modified by a first weight value over the first channel and the second transmission packet from a second antenna at a second rate that differs from the first rate..."

Referring to Dabak (Figure 4 and 8; col. 9, line 30 to col. 10, line 13), the closed loop weight factors W_1 and W_2 are applied to the respective channels. The weight factors W_1 and W_2 adjust the power (values as noted by Applicant's attorney in page 12, par. 1, sentence 2.) of the transmitted signals on channels 44 and 46. By applying the (power) weights onto the

channels, the transmitter of Dabak, increases/decreases the transmission power (claimed first/second rate) of each respective channels as required by the system.

Thus, given the above-reasoning, Ketchum in view of Dabak shows the different transmission rate as argued the Applicant's attorney.

Third, Applicant's attorney argues (at page 12, par. 1), that "the examiner's characterization applies to two (2) entirely different transmissions of Dabak, which could not arise from dividing a single encoded packet." In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Specifically, Ketchum reference was used to show the dividing step of an encoded packet.

Given, the rejection of claim 1 along with the additional reasoning presented as shown above, Ketchum in view Dabak, discloses the above-claim limitations which are evident in claim 1.

As to claim 3, Applicant's attorney argues that Ketchum in view of Dabak does not disclose the claim limitations of claim 3. However, the Examiner respectfully disagrees with the applicant. Specifically, Applicant shows (page 12, par. 3) an example stated "an example is that one of the packets M1 and M2 has only parity bits and no systematic bits and the other has all N of the systematic bits." However, the above-example is not present in the claim limitation.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., one of the

packets M1 and M2 has only parity bits and no systematic bits and the other has all N of the systematic bits) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As to the remainder of the claims, Applicant's Attorney bases the arguments on the same reasoning as what was presented in claim 1 arguments. Based from this, the Examiner uses the same reasoning as what was presented in claim 1 rejection.